

should be directed to Pat Ellis on (301) 457-2095.

Dated: March 15, 1995.

Everett M. Ehrlich,

*Under Secretary for Economic Affairs,
Economics and Statistics Administration.*

[FR Doc. 95-6809 Filed 3-17-95; 8:45 am]

BILLING CODE 3510-EA-M

Bureau of Export Administration

In the matter of Joseph P.M. D'Haens,
Respondent

[Docket No. 7102-01]

Related Person Order

Whereas, on April 25, 1988, then-Under Secretary for Export Enforcement Paul Freedenberg entered an order affirming a March 25, 1988 Recommended Decision and Order entered against Respondent Joseph P.M. d'Haens (d'Haens) by the Administrative Law (ALJ), which, in pertinent part, provided that:

For a period of 20 years * * * Respondent, Joseph P.M. d'Haens, Amerikalei 96, 2000 Antwerp, Belgium, and all successors, assignees, officers, partners, representatives, agents, and employees are hereby denied all privileges of participating, directly or indirectly, in any manner of [sic] capacity, in any transaction involving commodities or technical data exported from the United States * * *.

* * * * *

After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

Whereas, on May 28, 1993, the ALJ issued an Order to, *inter alia*,¹ Discom NV, Endymion NV, and Kronatech NV directing them to show cause why the sanctions in the April 25, 1988 Order entered against d'Haens should not be made applicable to them because of their relationship to d'Haens in the conduct of export trade or related services;

Whereas, on December 25, 1993, d'Haens responded to the Order to Show Cause by admitting that he has a business relationship with Discom NV, Endymion NV, and Kronatech NV;

Whereas, the ALJ has recommended, based on the evidence of record, that I enter an Order finding that the above

persons are related to d'Haens by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services;

Whereas, I find, based on the evidence of record, that each of the above persons is related to d'Haens by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services;

It is therefore ordered: That paragraph III of the ALJ's Recommended Decision and Order of March 25, 1988, as affirmed by the Under Secretary's April 25, 1988 Order, entered against Joseph P.M. d'Haens, be amended by adding the following as persons related to d'Haens:

Discom NV, Liersesteenweg 96, 2520 Ranst, Belgium

and

Endymion NV, Liersesteenweg 98, 2520 Ranst, Belgium

and

Kronatech NV, Amerikalei 96, 2000 Antwerpen, Belgium

Each of the above persons is therefore subject to the same sanctions as are imposed against d'Haens by the April 25, 1988 Order, which continues in full force and effect.

This Order is effective immediately. A copy of this Order shall be served on each named related person and published in the **Federal Register**.

This constitutes the final agency action in this matter.

Dated: March 13, 1995.

William A. Reinsch,

Under Secretary for Export Administration.

[FR Doc. 95-6720 Filed 3-17-95; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-570-838]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey From the People's Republic of China

AGENCY: Import Administration,
International Trade Administration,
Department of Commerce.

EFFECTIVE DATE: March 20, 1995.

FOR FURTHER INFORMATION CONTACT:

Karla Whalen or David J. Goldberger,
Office of Antidumping Investigations,
Import Administration, International
Trade Administration, U.S. Department
of Commerce, 14th Street and
Constitution Avenue, NW., Washington,
DC 20230; telephone: (202) 482-6309 or
(202) 482-4136, respectively.

Preliminary Determination

We preliminarily determine that honey from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on October 24, 1994, (59 FR 54434, October 31, 1994), the following events have occurred:

On November 1, 1994, we sent a survey to the PRC's Ministry of Foreign Trade and Economic Cooperation (MOFREC) and the China Chamber of Commerce for Foodstuffs, Native Produce and Animal By-products Importers and Exporters (the Chamber) requesting the identification of producers and exporters, and information on production and sales of honey exported to the United States.

A response to the survey was received on November 29, 1994. Based on this information, the Department sent full questionnaires including Attachment I (dealing with claims for Market Oriented Industry (MOI) status) and Attachment II (dealing with claims for Separate Rates), to MOFREC and the Chamber, requesting that the questionnaire be transmitted to all companies that process honey for export to the United States and to all companies that were engaged in exporting honey to the United States during the period of investigation (POI). On December 13 1994, MOFREC responded that it had done so.

On November 17, 1994, the U.S. International Trade Commission (ITC) notified the Department of Commerce (the Department) of its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of honey from the PRC that are alleged to be sold at less than fair value.

On January 3, 1995, the Department received section A responses from the Chamber and 28 Chinese exporters and their respective producers. Supplemental information was received on January 5 and 23, 1995. Each exporter is listed with its supplier(s):

Kunshan Xinlong Food, Ltd.

Kunshan Xinlong

Jiangsu Native Produce Import and Export
Jiangsu Sweet and Qinghai Provincial Bee
Products

Jiangxi Native Produce Import and Export
Jianxi Ao Shan Duo Qi Beverage Factory

¹ Several other companies were identified in the Order to Show Cause as possible being related to d'Haens. Based on the response to the Order to Show Cause, it has been determined that those companies are no longer related to d'Haens.

Zhejiang Native Produce & Animal By-product Import and Export
 Hangzhou Lewei Food Factory
 Heilongjiang Native Produce and Animal By-product Import and Export
 Baoji Kanda Honey Corporation
 Inner Mongolia Native Produce and Animal By-product
 Inner Mongolia Shengli Food Co.
 Chang Cheng Industrial Co., Ltd.
 Changcheng Industrial Co., Ltd.
 Shaanxi Native Produce Import and Export
 Shaanxi Export Food Factory
 Kunshan Foreign Trade Co.
 Kunshan Xinlong Foods Ltd.
 China (TUHSU) Super Food Import and Export
 Xinle Hebei Honey Factory
 Shanghai Bee Product Factory
 Baoji Kanda Honey Corporation
 Hubei Native Produce Import and Export
 Tianjin Native Produce Import and Export
 Hebei Province Bee Product Company
 Shandong Native Produce Import and Export
 Hu Shan Dried Fruits Processing Company
 Qinghai Cereals and Oils Import and Export
 Qinghai Provincial Bee Products Company
 Shanghai Native Produce Import and Export
 Jiangsu Sweet
 Guangxi Cereals, Oils and Foodstuffs Import and Export Corporation
 Kunshan Xinlong Foods Company, Ltd.
 Sichuan Native Produce Import and Export
 Anhui Tianxin Honey Product Co.
 China (TUHSU) Flavors and Fragrances Import and Export
 Kunshan Xinlong Food Ltd.
 Shandong Cereals and Oils Import and Export
 Weifang Hua Yuan Foodstuffs, Co., Ltd.
 Ningbo Native Produce Import and Export
 Ningbo Natural Bee Products Factory
 Anhui Cereals & Oils Import and Export
 Chaohu Baichun Pharmaceutical Ltd.
 Jiangsu Sweet Foods Ltd.
 Jiangsu Sweet
 Hebei Native Produce Import and Export
 Xinle Hebei Honey Factory
 Anhui Medicines and Health Produce Import and Export
 Zhuzhou General Trade Honey Product Factory
 Xian Native Produce and Animal By-product Import and Export
 Shaanxi Jingbian Honey Processing Factory
 Liaoning Native Produce Import and Export
 Liaoning Honey Factory
 Anhui Native Produce Import and Export
 Anhui Wuhu Milk Products Factory
 Henan Native Produce Import and Export
 Xinyang Honey Processing Factory

On January 19, 1995, we received responses to the remaining sections of the questionnaire from the above-mentioned exporters that had sales to the United States and their suppliers during the POI. We also received responses from the Additional information concerning Attachment II of the questionnaire was received on January 23, 1995.

In January and February 1995, we received comments from petitioners and respondents regarding separate rates and other issues.

In February 1995, the Department issued a supplemental questionnaire based on its analysis of the questionnaire response. We also sent a supplemental "Separate Rates" questionnaire to MOFTEC and to the Chamber.

On January 27, 1995, the Department requested parties to submit publicly available published information concerning surrogate values for valuating the factors of production for honey. On February 10 and February 24, 1995, petitioners and respondents, respectively, did so.

On February 27, 1995, responses to the Department's supplemental questionnaires were submitted. In addition, on March 3 and March 6, 1995, responses to the supplemental "Separate Rates" questionnaire were received.

Scope of Investigation

The products covered by this investigation are natural honey, artificial honey containing more than 50 percent natural honey by weight, and preparations of natural honey containing more than 50 percent natural honey by weight. The subject products include all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The subject merchandise is currently classifiable under subheadings 0409.00.00, 1702.90.50, 2106.90.61, and 2106.90.69 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Standing

On January 23, 1995, respondents challenged petitioners' standing to file this case with regard to "artificial honey containing more than 50 percent natural honey by weight" and "preparations of natural honey containing more than 50 percent natural honey by weight" because the ITC could not be certain that there was substantial production of "mixtures of honey" or "honey preparations" in the United States.

Pursuant to section 732(b)(1) of the Act, in order to have standing to file an antidumping petition, the petitioner must be an "interested party." The term "interested party" is defined, in relevant part, as "a manufacturer, producer, or wholesaler in the United States of the like product." (Section 771(9)(C) of the Act) Therefore, in determining whether the petitioners have standing as interested parties to file a petition on the class or kind of merchandise, the

Department must determine whether the petitioners produce the like product.

For purposes of determining standing, as is our usual practice, the Department has determined that it is appropriate to adopt the ITC's definition of like product in this case. The ITC has determined that there is a single like product consisting of "natural honey, artificial honey containing more than 50 percent natural honey by weight, and preparations of natural honey containing more than 50 percent natural honey by weight." Because it is undisputed that petitioners produce merchandise that falls within the like product category, as defined by the Department, they have standing with respect to all imports within the class or kind of merchandise, including mixtures of honey and honey preparations. See *Sandvik AB v. United States*, 721 F. Supp. 1322 (CIT, 1989), *aff'd without op.*, *Sandvik AB v. United States*, 904 F.2d 46 (1990).

Period of Investigation

The period of investigation (POI) is May 1, 1994, through October 31, 1994.

Selection of Respondents

On February 7, 1995, the Department solicited comments on its intention to focus the investigation on four exporters and their suppliers due to the administrative burden of analyzing and verifying such a large number of cooperating exporters located throughout the PRC (see Memorandum from Louis Apple, Program Manager, Office of Antidumping Investigations, to Gary Taverman, Acting Director, Office of Antidumping Investigations, dated February 6, 1995). Comments on this decision were received from respondents, petitioners, and U.S. importers of honey.

After a review of the comments received, the Department determined that a full analysis and verification of the four largest exporters that account for over 75 percent by volume of the subject merchandise imports from the PRC during the POI would provide an adequate basis for calculating a margin for purposes of collecting estimated duties. Thus, the analysis in this notice is based on the following exporters and their respective suppliers: (1) Kunshan Xinlong; (2) Jiangsu Native; (3) Jiangxi Native; and (4) Zhejiang Native. On March 2, 1995, the Department notified MOFTEC of this decision, pursuant to section 353.42(b)(2) of the Department's regulations.

Separate Rates

Each of the responding Chinese companies has requested a separate,

company-specific rate Kunshan Xinlong is a foreign joint venture which was established in 1992 and is owned by both PRC and foreign investors. Jiangsu Native is a limited liability corporation which is owned in part by its employees and in part by "all the people." According to their business licenses, Jiangxi Native and Zhejiang Native are state-owned enterprises ("owned by all the people").

As stated in the *Final Determination of Sales at Less than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, 22586, May 2, 1994) (*Silicon Carbide*), and the *Final Determination of Sales at Less than Fair Value: Sebacic Acid from the People's Republic of China* (59 FR 28053, May 31, 1994) ("*Sebacic Acid*"), ownership of a company by all the people does not require the application of a single rate. Accordingly, each of the four respondents is eligible for consideration for a separate rate.

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) ("*Sparklers*") and amplified in *Silicon Carbide*. Under the separate rates criteria, the Department assigns separate rates in nonmarket economy cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The respondents in this investigation have submitted a number of documents to demonstrate absence of *de jure* control, including two enactments indicating that the responsibility for managing enterprises "owned by all of the people" is with the enterprises themselves and not with the government. These are the "Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People," adopted on April 13, 1988, (1988 Law) and the "Regulations for Transformation of Operational Mechanism of State-Owned Industrial Enterprises," approved on August 23, 1992 (1992 Regulations).

The 1988 Law and 1992 Regulations shifted control of enterprises owned by all the people from the government to the enterprises themselves. The 1988 Law provides that enterprises owned "by the whole people" shall make their own management decisions, be responsible for their own profits and

losses, choose their own suppliers, and purchase their own goods and materials. The 1988 Law also has other provisions which support a finding that such enterprises have management independence from the government in making management decisions. The 1992 Regulations provide that these same enterprises can, for example, set their own prices (Article IX); make their own production decisions (Article XI); use their own retained foreign exchange (Article XII); allocate profits (Article II); sell their own products without government interference (Article X); make their own investment decisions (Article XIII); dispose of their own assets (Article XV); and hire and fire their employees without government approval (Article XVII).

Honey exports are also affected by another law, passed by the State Council in 1994, which the Department has not previously considered in the context of the Separate Rates issue. In April 1994, the "Emergent Notice of Changes in Issuing Authority for Export Licenses Regarding Public Quota Bidding for Certain Commodities" (1994 Quota Measure) entered into force, superseding earlier laws dealing with the export of the named commodities. Companies exporting honey during the POI, including the respondents, were subject to this law.

The 1994 Quota Measure cancelled previous export licenses for honey and put into place a licensing system based on a public bidding process. Now, any company (including barter, joint venture, solely foreign owned enterprises, etc.) wishing to export honey to any country must submit bids for a portion of a global quota of honey to be exported.

The global quota is determined by the Chamber in consultation with the exporting companies, based on an analysis of the annual exports over the last three years, the current supply and demand in the international market, and the Chinese domestic supply. The Chamber recommends this quota amount to MOFTEC, which to date has accepted every such recommendation made by the Chamber.

The process of bidding for a portion of the quota is administered by representatives of MOFTEC and the Chamber. MOFTEC stated that each bidding company decides its own bid price, which reflects the amount it is willing to pay for a portion of the quota, and the quantity for which it intends to bid. Winning companies are selected by a computer program based on the tendered prices and a publicly available mathematical formula, as detailed in Article XIV and Article XVI of the

"Guidelines of Public Quota Bidding for Export Commodities." Each winning company earns the right to an export license. Companies that have earned the right to export honey must deposit a portion of the bid price with the government in the form of a bond upon notification of their winning status and pay the balance of the bid price times the quantity allotted to the government upon claiming their honey export license.

After the bidding process is completed, the Chamber consults with winning bidders and analyzes past years' export prices to determine the appropriate minimum floor price in light of prices in the international market. The licensed exporters are free to negotiate prices above this floor. However, the program's regulations state that there are severe penalties for selling below the floor price, including revocation of the right to bid for or hold an export license for that commodity for up to two years. Despite this restriction in the regulations, respondent's counsel has stated that certain exporters have reported that they, in fact, sell honey below the floor price.

Respondents argue that: (1) the licensing process should not be seen as the Chinese government's reassertion of control over the companies, and (2) the 1994 Quota Measure and the bidding process do not allow the Chinese government to manipulate the price of exported honey. Respondents view this procedure as an effort by the Chinese government to provide every company an equal opportunity to bid for part of the quota on a fair and impartial basis and to increase the price of PRC honey through macro-economic means.

Petitioners, on the other hand, view the 1994 Quota Measure as evidence that the honey industry in the PRC is controlled by the Chinese central government. Petitioners state that the 1994 Quota Measure extends the quota system on honey "to cover worldwide exports and to control worldwide prices of exported honey," and see this measure as evidence of *de jure* control of the honey industry by the Chinese government.

After a thorough examination of the nature of the government involvement associated with the 1994 Quota Measure described above, the Department has preliminarily determined that, although there is some government involvement with respect to the export of products subject to investigation, there is an absence of government control over exporting pricing and marketing decisions of firms.

We find that the bidding process, as described in detail in the official

documents provided for the record, permits independent export pricing decisions. The quota system operates on the basis of transparent and well-defined rules. All companies are free to bid for the right to export honey according to their own business plans. Further, companies are free to independently negotiate export prices with their customers above the floor price, which the exporting companies themselves are instrumental in setting. MOFTEC has claimed that it does not involve itself in the price-setting or market destination of companies that have won the right to export honey. Thus, allocation of the export quota is arrived at in a competitive form, and separate prices are set by each enterprise with industry input as to the floor price and in open competition with respect to the final price. Furthermore, under the *1994 Quota Measure*, honey exporters compete with each other for customers in the global marketplace. Thus, the 1994 measure does not involve the type of *de jure* government control over export pricing and marketing decisions contemplated in the separate rates test.

As stated in previous cases, there is some evidence, that the provisions of the above-cited *1988 Law* and *1992 Regulations* regarding enterprise autonomy have not been implemented uniformly among different sectors and/or jurisdictions in the PRC (see "PRC Government Findings on Enterprise Autonomy," in *Foreign Broadcast Information Service—China—93-133* (July 14, 1993)). Therefore, the Department has determined that an analysis of *de facto* control is critical to determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (see *Silicon Carbide* and *Sebacic Acid*).

Kunshan Xinlong, Jiangsu Native, Jiangxi Native and Zhejiang Native have each asserted that (1) it establishes its own export prices above the floor in conformance with the *1994 Quota Measure* and the PRC government does not set or approve the actual prices negotiated between buyers and sellers for honey imports into the United States; (2) it negotiates contracts on a case-by-case basis based on market conditions, without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions, and there is no information on the record that suggests central government control over selection of management; and (4) it retains the proceeds of its export sales, uses profits according to its business needs and has the authority to sell its assets and to obtain loans. In addition, questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters (i.e., the prices for the same grades of honey differ among companies). This information supports a preliminary finding that there is a *de facto* absence of governmental control of the management of these firms. The *de facto* impact of the regulatory provisions embodied in the *1994 Quota Measure* does not constitute the degree of control of these firms which would preclude the calculation of antidumping rates based on their own, separate competitively-set prices.

Consequently, we preliminarily determine that Kunshan Xinlong, Jiangsu Native, Jiangxi Native and Zhejiang Native have met the criteria for the application of separate rates.

Market Oriented Industry

The respondents participating in this investigation have claimed that their material inputs are acquired at market prices and that, accordingly, we should find that the Chinese honey industry is a market oriented industry (MOI) and the Department should use the actual PRC prices for valuing these inputs.

The criteria for determining whether a MOI exists are: (1) For the merchandise under investigation, there must be virtually no government involvement in setting prices or amounts to be produced; (2) the industry producing the merchandise under investigation should be characterized by private or collective ownership; and (3) market-determined prices must be paid for all significant inputs, whether material or non-material e.g., labor and overhead), and for all but an insignificant proportion of all the inputs accounting for the total value of the merchandise under

investigation. (See, *Amendment to Final Determination of Sales at Less than Fair Value and Amendment to Antidumping Duty Order: Chrome Plated Lug Nuts from the People's Republic of China*, 57 FR 15052, 15054, April 24, 1992) (Lug Nuts Redetermination).

We recognize that certain sectors in the PRC may be becoming more market-oriented and that honey appears to be one of the more decentralized industries. However, we have determined that the MOI criteria outlined above have not been met in this investigation. For example, the third prong has clearly not been met in this case. Respondents have merely made unsubstantiated claims that the prices for significant inputs in processing honey are market-determined. Respondents have provided no information regarding the relevant real estate and capital markets. There is no description of the supply and demand factors supporting the claim that raw honey prices in China are market-driven, nor is there evidence on the record regarding supply and demand conditions in the labor market. Although the Ministry of Agriculture submitted a statement that coal and electricity prices are "set by the market," respondents do not elaborate on this statement nor do they provide any factual support for such a statement. It is known that electricity is rationed in the PRC, but respondents have not explained if and how electricity is rationed in the case of honey producers and on what basis.

Therefore, we preliminarily find that a MOI does not exist, and accordingly have calculated foreign market value in accordance with section 773(c) of the statute.

Nonmarket Economy Country Status

The Department has treated the PRC as a nonmarket economy country (NME) in all past antidumping investigations and administrative reviews (see, e.g., *Sebacic Acid* and *Silicon Carbide*). Neither respondents nor petitioners have challenged such treatment. Therefore, in accordance with section 771(18)(c) of the Act, we will continue to treat the PRC as an NME in this investigation.

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base FMV on the NME producers' factors of production, valued in a comparable market economy that is a significant producer of the merchandise. Section 773(c)(2) of the Act alternatively provides that when available information is inadequate for using the factors of production methodology, FMV may be based on the

export prices for comparable merchandise from market economy countries at a comparable level of economic development.

For purposes of the preliminary determination, we have relied on the methodology provided by section 773(c)(1) of the Act to determine FMV. The sources of individual factor prices are discussed under the FMV section, below.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producers' factors of production, to the extent possible, in one or more market economy countries that (1) Are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department has determined that India, Kenya, Nigeria, Pakistan, Sri Lanka, and Indonesia are the countries most comparable to the PRC in terms of overall economic development (see Memorandum from David Mueller, Director, Office of Policy, to Gary Taverman, Acting Director, Office of Antidumping Investigations, dated January 25, 1995). According to the information we have developed, India appears to be the most significant producer of honey among these six potential surrogate countries. Accordingly, we have calculated foreign market value (FMV) using Indian prices for the PRC producers' factors of production. We have obtained and relied upon published, publicly available information wherever possible.

Fair Value Comparisons

To determine whether sales of honey from the PRC to the United States by Kunshan Xinlong, Jiangsu Native, Jiangxi Native and Zhejiang Native were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We based USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold directly by the Chinese exporters to unrelated parties in the United States prior to importation into the United States.

For the four investigated exporters, we calculated purchase price based on packed, CIF and C&F foreign-port prices to unrelated purchasers in the United States. Where necessary, we made deductions for foreign inland freight

and transportation insurance, valued in India.

The four respondents reported commissions incurred on certain sales. Our analysis of these expenses, based on respondents' submissions, indicates that these expenses are actually discounts from price. Accordingly, we have deducted them from gross price.

Two exporters, Jiangsu Native and Zhejiang Native reported that their merchandise was shipped on market-economy carriers and that they paid for these services in U.S. dollars. These expenses included containerization and loading charges. Accordingly, for those companies, we deducted the reported ocean freight expense. The other two exporters, Kunshan Xinlong and Jiangxi Native, reported the use of both market economy and PRC based shipping companies. However, neither identified which sales were shipped by the relevant ocean freight companies. As best information available (BIA), we applied the higher of the reported expense or the amount provided by an international shipping company for transportation between Shanghai, the port of exportation, and various U.S. destinations. Where an international shipping rate was used, we also deducted containerization and loading fees valued in India, because these charges were included in the ocean freight value.

Foreign Market Value

In accordance with section 773(c) of the Act, we calculated FMV based on factors of production reported by the factories in the PRC which produced the subject merchandise for the four exporters. The factors used to produce the subject merchandise include raw honey, labor, factory overhead, selling, general and administrative expenses, and packing. The reported factor quantities were multiplied by Indian values. Where possible, we used public information. For a complete analysis of surrogate values, see the Valuation Memorandum, dated March 13, 1995, for this investigation.

We did not add separately a freight expense for transporting raw material from the supplier to the processor because this expense appears to be included in the surrogate values used (see the Valuation Memorandum).

To value raw honey, we used public information from the August-September, 1993, edition of *Khadigramodyog*, an English-language Indian agricultural journal. We adjusted the factor values from 1993 to the POI using wholesale price indices published in *International Financial Statistics (IFS)* by the International Monetary Fund.

To value labor, we used information regarding the Indian trade industry from the International Labor Office's 1993 *Yearbook of Labor Statistics*. We adjusted the factor value to the POI using consumer price indices published in the *International Financial Statistics*, consistent with our treatment of this value in past NME cases (see, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Coumarin from the People's Republic of China* 59 FR 66895, December 28, 1994).

To value factory overhead, including energy, we calculated a percentage based on data from the August-September, 1993 edition of *Khadigramodyog*. For selling, general and administrative (SG&A) expenses, we used the ten percent statutory minimum because we were unable to obtain an Indian value. For profit, we used the statutory minimum of eight percent of materials, labor, factory overhead, and SG&A expenses because we were unable to obtain an Indian value. We added packing, using Indian values obtained from *Indian Import Statistics*.

Margins for Exporters Whose Responses Were Not Analyzed

For the responding companies that provided all the questionnaire responses requested of them and otherwise fully cooperated with the Department's investigation, but nonetheless, were not fully analyzed by the Department, due to limited resources, (see *Selection of Respondents* section above), we are assigning the weighted-average of the rates of the four fully analyzed companies. Companies receiving this rate are identified by name in the Suspension of Liquidation section of this notice.

We are not assigning a single country-wide rate to all exporters other than those which had been individually determined to have met the criteria for a separate rate. This change in methodology was necessitated by the particular circumstances of this case. The parties who responded but were not analyzed have applied for separate rates, and provided materials for the Department to consider in this request. Although the Department is unable, due to administrative constraints, to consider the request for separate rates status, and to calculate a separate rate for each of these named parties, there has been no failure on the part of these firms to provide requested information. Because it would not be appropriate for the Department to refuse to consider an affirmative documented request for an examination of whether these companies were independent of any

non-respondent firms and then assign to the cooperative firms the rate for the noncooperative firms, which in this case is an adverse margin based on best information available, the Department has assigned a special single rate for these firms.

Best Information Available (BIA)

The following discussion regarding the application of BIA applies to all exporters other than those that have responded to our questionnaires. Because no information has been presented to the Department to prove otherwise, any exporter of subject merchandise that did not respond to the Department's questionnaires is presumed to be under government control, and, therefore, is not entitled to its own separate dumping margin. The evidence on record indicates the responding companies may not account for all exports of the subject merchandise. In the absence of responses from all exporters, therefore, we are basing the All PRC rate on BIA, pursuant to section 776(c) of the Act (*see Silicon Carbide*).

In determining what to use as BIA, the Department follows a two-tiered methodology, whereby the Department normally assigns lower margins to those respondents that cooperated in an investigation and more adverse margins to those respondents that did not cooperate in an investigation. When a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's investigation, it is appropriate for the Department to assign to that company the higher of (a) the highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation (*see Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Belgium* (58 FR 37083, July 9, 1993). In this investigation, since the evidence indicates that not all PRC exporters of honey responded to our questionnaire, we are assigning to any PRC company, other than those specifically identified below, the highest calculated margin,

which is higher than the margin alleged in the petition, as revised by the Department (*see Initiation of Antidumping Duty Investigation: Honey from the People's Republic of China*, (59 FR 54434, October 31, 1994).

Verification

As provided in section 776(b) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to suspend liquidation of all entries of honey from the PRC, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the FMV exceeds the USP as shown below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Kunshan Xinlong Food, Ltd.	146.37
Jiangsu Native Produce Import & Export	127.52
Jiangxi Native Produce Import & Export	157.16
Zhejiang Native Produce & Animal By-Product Import & Export	131.86
For the Following Other Responding Firms:	144.61
Heilongjiang Native Produce and Animal By-product Import and Export	
Inter Mongolia Native Produce and Animal By-product	
Chang Cheng Industrial Co. Ltd	
Shaanxi Native Produce Import and Export	
Kunshan Foreign Trade Co	
China (TUHSU) Super Food Import and Export	
Hubei Native Produce Import and Export	
Tianjin Native Produce Import and Export	
Chanting Native Produce Import and Export	
Qinghai Cereals and Oils Import and Export	
Shanghai Native Produce Import and Export	
Guangxi Cereals, Oils and Foodstuffs Import and Export Corporation	
Sichuan Native Produce Import and Export	
China (TUHSU) Flavors and Fragrances Import and Export	
Shandong Cereals and Oils Import and Export	
Ningbo Native Produce Import and Export	
Anhui Cereals & Oils Import and Export	
Jiangsu Sweet Foods, Ltd	
Hebei Native Produce Import and Export	
Anhui Medicines and Health Produce Import and Export	
Xian Native Produce and Animal By-product Import and Export	
Liaoning Native Produce Import and Export	
Anhui Native Produce Import and Export	
Henan Native Produce Import and Export	
All PRC	157.16

The All PRC rate applies to all entries of subject merchandise except for entries from exporters that are identified above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our

determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary

determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than May 4, 1995, and rebuttal briefs, no later than May 11, 1995. In accordance with 19 CFR 353.38(b), we will hold a public hearing if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held at 1:00 p.m. on May 16, 1995, at the U.S. Department of Commerce, Room 4803, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, within ten days of the publication of this notice. Request should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs. In this investigation proceeds normally, we will make our final determination within 75 days after the preliminary determination.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15(a)(4).

Dated: March 13, 1995.

Susan G. Esserman,
Assistant Secretary for Import
Administration.

[FR Doc. 95-6810 Filed 3-17-95; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-806]

Silicon Metal From Brazil; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests from petitioners and four respondents, the

Department of Commerce (the Department) has conducted an administrative review of the antidumping duty order on silicon metal from Brazil. This review covers four manufacturers/exporters and the period July 1, 1992, through June 30, 1993.

We have preliminarily determined that sales have been made below the foreign market value (FMV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between United States price (USP) and the FMV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 20, 1995.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482-5255.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1991, the Department published in the **Federal Register** (56 FR 36135) the antidumping duty order on silicon metal from Brazil. On July 7, 1993, the Department published (58 FR 36391) a notice of "Opportunity to Request an Administrative Review" of this antidumping duty order for the period July 1, 1992, through June 30, 1993. We received timely requests for review from Companhia Brasileira Carbureto de Calcio (CBCC), Companhia Ferroligas Minas Gerais Minasligas (Minasligas), Electroila, S.A. (currently known as Eletrosilex Belo Horizonte (Eletrosilex)), and Rima Eletrometalurgia S.A. (RIMA). We also received a request for review of the same four manufacturers/exporters of silicon metal from a group of five domestic producers of silicon metal (the petitioners). The five domestic producers are American Alloys, Inc., Elkem Metals Co., Globe Metallurgical, Inc., SMI Group, and SKW Metals and Alloys, Inc.

On August 24, 1993, the Department published a notice of initiation (58 FR 44653) covering the four manufacturers/exporters named above. We verified the cost responses of Eletrosilex, RIMA, and CBCC in June and July 1994. The Department has now completed the preliminary results of this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

The merchandise covered by this review is silicon metal from Brazil containing at least 96.00 percent but less than 99.99 percent silicon by weight. Also covered by this review is silicon metal from Brazil containing between 89.00 and 96.00 percent silicon by weight but which contains a higher aluminum content than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor grade silicon (silicon metal containing by weight not less than 99.99 percent silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to the order. HTS item numbers are provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of product coverage.

The review period is July 1, 1992, through June 30, 1993. This review involves four manufacturers/exporters of Brazilian silicon metal.

United States Price

In calculating USP, we used purchase price as defined in section 772 of the Tariff Act. Purchase price was based on the packed, F.O.B., C.I.F., or C&F price to the first unrelated purchaser in the United States, or to unrelated trading companies who export to the United States.

We made deductions from USP, where appropriate, for foreign inland freight, ocean freight, and brokerage and handling. We made an addition to USP, where appropriate, for duty drawback. These adjustments were in accordance with section 772(d)(2) of the Tariff Act. We also adjusted USP for taxes in accordance with our practice as outlined in *Silicomanganese from Venezuela, Preliminary Determination of Sales at Less Than Fair Value*, 59 FR 31204 (at 31205), June 17, 1994.

No other adjustments were claimed or allowed.

Foreign Market Value

In order to determine whether there were sufficient sales of silicon metal in the home market to serve as a viable basis for calculating FMV, we compared the volume of each respondent's home market sales to the volume of its third-country sales, in accordance with section 773(a)(1)(B) of the Tariff Act. In each case we found that the respondent's sales of silicon metal in